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**RESPONSE UNDER 37 CFR 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP 3641**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE THE APPLICATION OF:

Inventor : Mitchell R. Swartz

Serial no. 09/750, 480

Filed: 12/28/00

For: **METHOD AND APPARATUS  
TO MONITOR LOADING  
USING VIBRATION**

This is a continuation of Serial no. 07/371,937

Filed: 06/27/89

PAPER:

Group Art Unit: 3641

Examiner: R. Palabrica

September 8, 2006

Commissioner for Patents  
Alexandria, VA 22313-1450

**PETITION TO THE COMMISSIONER  
PURSUANT TO 37 C.F.R. 1.181**

1. This Petition is made pursuant to 37 C.F.R. 1.181 to the Commissioner of Patents, and is made to invoke his supervisory authority to correct the situation with respect to the recent Office Communication [Exhibit "A" attached, mailed 9/5/06]. Pursuant to 37 C.F.R. 1.181, there is no fee. This Petition is reasonable, based upon the reasons stated below and confirmed by the facts as discussed in the Declaration supporting this Petition.

2. In the discussion below, reference is made to the Declaration of Dr. Mitchell Swartz (hereinafter called the "Swartz Declaration") dated September 7, 2006. It will be demonstrated that this Petition is reasonable.

3. Said Communication refers to a purported Office response dated "July 6, 2005" (according to Exhibit "A").

4. Applicant never received any purported Office response dated "July 6, 2005". As stated in the Swartz Declaration,

**" I have never received any purported Office response dated "July 6, 2005" (according to Exhibit "A") or any date thereafter."**

5. Mr. Palabrica's failure to send a copy of his so-called "response", dated "July 6, 2005", to the Applicant is egregious.

6. Mr. Palabrica's failure to send a copy of his so-called "response", allegedly dated "July 6, 2005", to the Applicant is egregious, but apparently consistent with Mr. Palabrica's past behavior in this matter.

7. As stated in the Swartz Declaration,

**"For example, as documented by the Board of Patent Appeals in August 2006 on another case, Serial No: 07/339,976 Filed: 4/18/89. In said case, Appellant received an Order from the Board to the Examiner, entitled "Order Returning Undocketed Appeal To Examiner" which heralded that the Examiner had at last written a Second Answer on or about June, 2006. Said Order stated, "According to PALM, there is a second subsequent examiner's answer mailed June 2, 2006." Appellant never received a copy of said Second Answer in that case."**

In politics, such omissions are called "dirty tricks". In science, medicine, and engineering, such behavior is simply not tolerated.

8. Applicant respectfully notes that the U.S. Supreme Court has ruled that any pro se litigant is entitled to less stringent standards [U.S. Rep volume 404, pages 520-521 (72)].

WHEREFORE, for the above reasons, and especially given Exhibit "A" and the failure of Mr. Palabrica to send the Applicant his purported "response" in the above-entitled action (AND in Serial No: 07/339,976 as cited by the Board of Patent Appeals), Applicant hereby requests:

- i) a clear legible copy of BOTH the alleged "response", and
- ii) a copy of the Office docket. Both should be in a form complete, unredacted, deciphered, and readable.

Respectfully,



Mitchell R. Swartz, ScD, MD, EE  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/750,480	12/28/2000	Mitchell R. Swartz		7970
7590 09/05/2006				
Mitchell R. Swartz, ScD, EE, MD 16 Pembroke Road Weston, MA 02493			EXAMINER PALABRICA, RICARDO J	
			ART UNIT 3662	PAPER NUMBER

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

EXHIBIT "A"

PTO696a.tif  
Type: TIF Image  
Size: 276 KB  
Dimension: 5078 x 6590